

**CITY OF NEWTON
PURCHASING DEPARTMENT**

CONTRACT FOR INFORMATION SERVICES

**PROJECT MANUAL:
*DISASTER RECOVERY SYSTEM FOR STORAGE AREA NETWORK
INVITATION FOR BID #14-34***

Bid Opening Date: October 24, 2013 at 10:30 a.m.

**OCTOBER 2013
Setti D. Warren, Mayor**

CITY OF NEWTON
PURCHASING DEPARTMENT
INVITATION FOR BID #14-34

The City of Newton invites sealed bids from Contractors for:

DISASTER RECOVERY SYSTEM FOR STORAGE AREA NETWORK

Bids will be received until: ***10:30 a.m., Thursday, October 24, 2013**
at the Purchasing Department, Room 204, Newton City Hall, 1000 Commonwealth Ave., Newton, MA 02459. Immediately following the deadline for bids all bids received within the time specified will be publicly opened and read aloud.

Contract Documents will be available on line at www.newtonma.gov/bids or for pickup at Newton City Hall, Room 204, Purchasing Department, 1000 Commonwealth Avenue, Newton Centre, MA 02459 after **10:00 a.m., October 10, 2013.**

There will be no charge for contract documents.

Bid surety is not required with this bid.

No alternates are required for this bid.

Award will be made to the lowest, responsible and responsive bidder.

This will be a one-time purchase by Purchase Order. The dollar value of the contract may not be increased by an amount more than twenty five percent (25%) of the contract total.

All bids are subject to the provisions of M.G.L. Chapter 30B. F.O.B., Newton, MA.

All bids shall be submitted as **one (1) ORIGINAL and two (2) COPIES.**

All City of Newton bids are available on the City's web site at www.newtonma.gov/bids. It is the sole responsibility of the contractor downloading these bids to ensure they have received any and all addenda prior to the bid opening. Addenda's will be available online within the original bid document as well as a separate file. If you download bids from the internet site and would like to make it known that your company has done so, you may fax the Purchasing Dept. (617) 796-1227 or email to purchasing@newtonma.gov with your NAME, ADDRESS, PHONE, FAX AND INVITATION FOR BID NUMBER.

The City will reject any and all bids in accordance with the above referenced General Laws. In addition, the City reserves the right to waive minor informalities in any or all bids, or to reject any or all bids (in whole or in part) if it be in the public interest to do so.

CITY OF NEWTON

Nicholas Read
Chief Procurement Officer

***October 10, 2013**

****Please Note: Dates have changed from what was originally advertised.***

CITY OF NEWTON
DEPARTMENT OF PURCHASING
INSTRUCTIONS TO BIDDERS

ARTICLE 1 - BIDDER'S REPRESENTATION

- 1.1 Each General Bidder (hereinafter called the "Bidder") by making a bid (hereinafter called "bid") represents that:
1. The Bidder has read and understands the Bidding Documents, Contract Forms, General Conditions, Conditions of the Contract, General Requirements and Project Specifications (collectively, referred to as the "Contract Documents") and the bid is made in accordance therewith.
 2. The Bidder has visited the work site and is familiar with the local conditions under which the work has to be performed.
- 1.2 Failure to so examine the Contract Documents and work site will not relieve any Bidder from any obligation under the bid as submitted.

ARTICLE 2 - REQUEST FOR INTERPRETATION

- 2.1 Bidders shall promptly notify the City of any ambiguity, inconsistency, or error which they may discover upon examination of the Contract Documents, the site, and local conditions.
- 2.2 Bidders requiring clarification or interpretation of the Contract Documents shall make a written request to the *Chief Procurement Officer*, at purchasing@newtonma.gov or via facsimile (617) 796-1227. The City will only answer such requests if received by **Friday, October 18, 2013 at 12:00 noon**.
- 2.3 Interpretation, correction, or change in the Contract Documents will be made by addendum which will become part of the Contract Documents. The City will not be held accountable for any oral communication.
- 2.4 Addenda will be emailed to every individual or firm on record as having taken a set of Contract Documents.
- 2.5 Copies of addenda will be made available for inspection at the location listed in the Invitation for Bids where Contract Documents are on file, in addition to being available online at www.newtonma.gov/bids.
- 2.6 Bidders or proposers contacting ANY CITY EMPLOYEE regarding an Invitation for Bid (IFB) or a Request for Proposal (RFP), outside of the Purchasing Department, once an IFB or RFP has been released, may be disqualified from the procurement process.
- 2.7 Bidders downloading information off the internet web site are solely responsible for obtaining any addenda prior to the bid opening. If the bidder makes itself known to the Purchasing Department, at purchasing@newtonma.gov or via facsimile (617) 796-1227, it shall be placed on the bidder's list. Bidders must provide the Purchasing Department with their company's name, street address, city, state, zip, phone, fax, email address and **INVITATION FOR BID #14-34**.

ARTICLE 3 - MBE PARTICIPATION

- 3.1 Notice is hereby given that the Mayor's Affirmative Action Plan for the City of Newton in effect at the time of this solicitation is applicable to all construction contracts in excess of \$10,000.00.
- 3.2 Notice is hereby given that the City of Newton Minority/Women Business Enterprise Plan and the Supplemental Equal Employment Opportunity Anti-Discrimination and Affirmative Action Program in effect at the time of this solicitation are applicable to all City contracts for goods and services in excess of \$50,000.00.
- 3.3 Copies of the Plans and Program referred to in Sections 3.1 and 3.2 are available at: www.newtonma.gov/purchasing.

ARTICLE 4 - PREPARATION AND SUBMISSION OF BIDS

- 4.1 Bids shall be submitted on the "Bid Form" as appropriate, furnished by the City.
- 4.2 All entries on the Bid Form shall be made by typewriter or in ink.
- 4.3 Where so indicated on the Bid Form, sums shall be expressed in both words and figures. Where there is a discrepancy between the bid sum expressed in words and the bid sum expressed in figures, the words shall control.
- 4.4 The Bid, including the bid deposit shall be enclosed in a sealed envelope with the following plainly marked on the outside:
- * GENERAL BID FOR: **#14-34**
 - * NAME OF PROJECT: **Disaster Recovery System for SAN**
 - * BIDDER'S NAME, BUSINESS ADDRESS, AND PHONE NUMBER
- 4.5 Date and time for receipt of bids is set forth in the Invitation for Bids.
- 4.6 Timely delivery of a bid at the location designated shall be the full responsibility of the Bidder. In the event that Newton City Hall is closed on the date or at the time that bids are due, the date and time for receipt of bids shall be on the next business day following that the Newton City Hall and the Purchasing Department are open.
- 4.7 Bids shall be submitted with one **original** and one **copy**.
- 4.8 Be advised that a new Massachusetts law has been enacted that required all employees who work on Massachusetts Public works construction sites must have no less than 10 hours of OSHA-approved safety and health training. See Chapter 306 of the Acts of 2004, which became effective July 1, 2006.
1. This requirement will apply to any general bid or sub bid submitted.
 2. This law directs the Massachusetts Attorney General to restrain the award of construction contracts to any contractor who is in violation to this requirement and to restrain the performance of these contracts by non-complying contractors.
 3. The contractor and all subcontractors on this project will be required to provide certification of compliance with this requirement. Non-compliance with this law will disqualify you from bidding on public contracts.

ARTICLE 5 - ALTERNATES

- 5.1 Each Bidder shall acknowledge alternates (if any) in Section C on the Bid Form.
- 5.2 In the event an alternate does not involve a change in the amount of the base bid, the Bidder shall so indicated by writing "No Change", or "N/C" or "0" in the space provided for that alternate.
- 5.3 Bidders shall enter on the Bid Form a single amount for each alternate which shall consist of the amount for work performed by the Contractor.
- 5.4 The low Bidder will be determined on the basis of the sum of the base bid and the accepted alternates.

ARTICLE 6 - WITHDRAWAL OF BIDS

- 6.1 Any bid may be withdrawn prior to the time designated for receipt of bids on written or electronic request. Electronic withdrawal of bids must be confirmed over the Bidder's signature by written notice postmarked on or before the date and time set for receipt of bids.
- 6.2 Withdrawn bids may be resubmitted up to the time designated for the receipt of bids.

- 6.3 No bids may be withdrawn within sixty (60) days, Saturdays, Sundays and legal holidays excluded, after the opening of the bids.

ARTICLE 7 - CONTRACT AWARD

- 7.1 The City will award the contract to the lowest responsive and responsible Bidder within sixty (60) days, Saturdays, Sundays, and legal holidays excluded, after the opening of bids.
- 7.2 The City reserves the right to waive minor informalities in or to reject any or all Bids if it be in the public interest to do so.
- 7.3 The City reserves the right to reject any bidder who has failed to pay any local taxes, fees, assessments, betterments, or any other municipal charge, unless the bidder has a pending abatement application or has entered into a payment agreement with the collector-treasurer.
- 7.4 As used herein, the term "lowest responsive and responsible Bidder" shall mean the Bidder (1) whose bid is the lowest of those bidders possessing the skill, ability and integrity necessary for the faithful performance of the work; (2) who has met all the requirements of the invitation for bids; (3) who shall certify that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work; (4) who, where the provisions of section eight B of chapter twenty-nine apply, shall have been determined to be qualified thereunder.
- 7.5 Subsequent to the award and within five (5) days, Saturday, Sundays and legal holidays excluded, after the prescribed forms are presented for signature, the successful Bidder shall execute and deliver to the City a contract in the form included in the Contract Documents in such number of counterparts as the City may require.
- 7.6 In the event that the City receives low bids in identical amount from two or more responsive and responsible Bidders, the City shall select the successful Bidder by a blind selection process chosen by the City such as flipping a coin or drawing names from a hat. The low Bidders who are under consideration will be invited to attend and observe the selection process.

ARTICLE 8 - TAXES

- 8.1 The Bidder shall not include in this bid any tax imposed upon the sale or rental of tangible personal property in this Commonwealth, such as any and all building materials, supplies, services and equipment required to complete the work.
- 8.2 The City is exempt from payment of the Massachusetts Sales Tax, and the Bidder shall not include any sales tax on its bid. The City's exemption Number is E-046-001-404.

END OF SECTION

CITY OF NEWTON
DEPARTMENT OF PURCHASING
BID FORM #14-34

- A. The undersigned proposes to furnish all labor, materials, tools, equipment, transportation and supervision required to perform all work in accordance with the Project Manual prepared by the City of Newton entitled:

DISASTER RECOVERY SYSTEM FOR STORAGE AREA NETWORK

- B. This bid includes addenda number(s) _____, _____, _____, _____.

- C. The proposed contract price* is:

DOLLARS (\$ _____)

*The contract price is the "Total Price For Project" listed on p. 9.

COMPANY: _____

- D. The undersigned has completed and submits herewith the following documents:

- ☐ Signed Bid Form, 2 pages
- ☐ Bid Item Sheets, 2 pages
- ☐ Bidder's Qualifications and References Form, 2 pages
- ☐ Certificate of Non-Collusion, 1 page
- ☐ Debarment Letter, 1 page
- ☐ IRS Form W-9, 1 page
- ☐ Certification of Tax Compliance, 1 page

- E. Prompt Payment Discounts. Bidders are encouraged to offer discounts in exchange for an expedited payment. Payments may be issued earlier than the general goal of within 30 days of receipt of the invoice only when in exchange for discounted prices. Discounts will not be considered in determining the lowest responsible bidder.

Prompt Payment Discount _____ % _____ Days
Prompt Payment Discount _____ % _____ Days
Prompt Payment Discount _____ % _____ Days

- F. The undersigned agrees that, if selected as general contractor, s/he will within five days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the City of Newton, execute a contract in accordance with the terms of this bid.

The undersigned hereby certifies that it is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work and that they will comply fully with all laws and regulations applicable to awards made subject to M.G.L. Chapter 30B.

The undersigned further certifies under the penalties of perjury that this bid has been made and submitted in good faith and without collusion or fraud with any other person. As used in this section the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity, or group of individuals.

The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from public contracting or subcontracting in the Commonwealth under the provisions of M.G.L. Chapter 29, Section 29F or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

Date _____

(Name of General Bidder)

BY: _____

(Printed Name and Title of Signatory)

(Business Address)

(City, State Zip)

(Telephone)

/_____
(FAX)

(E-mail Address)

NOTE: If the bidder is a corporation, indicate state of incorporation under signature, and affix corporate seal; if a partnership, give full names and residential addresses of all partners; if an individual, give residential address if different from business address; and, if operating as a d/b/a give full legal identity. Attach additional pages as necessary.

END OF SECTION

BID ITEM SHEETS

Qty	Model	Description	Price
Cisco			
4	UCSC-C220-M3L	UCS C220 M3 LFF w/o CPU mem HDD PCIe PSU w/ rail kit	
4	UCSC-PCIF-01F	Full height PCIe filler for C-Series	
4	UCSC-PCIF-01H	Half height PCIe filler for UCS	
4	UCSC-RAIL1	Rail Kit for C220 C22 C24 rack servers	
8	UCS-CPU-E5-2630	2.30 GHz E5-2630/95W 6C/15MB Cache/DDR3 1333MHz	
18	UCS-MR-1X082RY-A	8GB DDR3-1600-MHz RDIMM/PC3-12800/dual rank/1.35v	
8	UCS-HDD300GI2F208	300GB SAS 15K RPM 3.5 inch HDD/hot plug/drive sled mounted	
8	CAB-9K12A-NA	Power Cord 125VAC 13A NEMA 5-15 Plug North America	
8	UCSC-PSU-650W	650W power supply for C-series rack servers	
4	UCSC-RAID-MZ-220	Cisco UCS RAID SAS 2008M-8i Mezz Card for C220 (0/10/10)	
8	UCSC-BBLKD-L	3.5-inch HDD Blanking Panel	
4	UCSC-HS-C220M3	Heat Sink for UCS C220 M3 Rack Server	
4	CON-SNTP-C220M3LF	SMARTNET 24X7X4 UCS C220 M3 Server - LFF	
4	4x4GbE	1GbE x 4 Port	
2	SFE2000	24 Port 1 GbE Switches	
EMC			Price
1	M-ENHSW-011	ENHANCED SOFTWARE SUPPORT - PLATFORM/ELM	
1	PSI FOR VNXE	PSI FOR VNXE 3150	
1	PSINST-ESRS	ZERO DOLLAR ESRS INSTALL	
1	PS-BAS-RSLEED	VNXE DEPLOYMENT SUPPORT	
1	457-100-981	VNXE3150 BASE OE v2.0 DUAL SP EMC ECOSYS	
1	V22-SWFEATURE	VNXE3150 SOFTWARE FEATURES	
3	V13-PWR-12	2 C13 PWRCORDS W/NEMA 5-15 PLUG 125V 10A	
12	V2-PS15-600	600GB 15K 6GB SAS 3.5 DRIVE	
6	V2-PS07-010	1TB 7200RPM NL-SAS 3.5 DRIVE	
2	V2-DAE-12	DAE WITH 12 X 3.5 INCH DRIVE SLOTS	
1	V212D08A12PM8	VNXE3150 2XSP DPE; 8GB;12X3.5 DS;8X600GB	
Vmware			Price
1	VS5-STD-AK2-C	VMware vSphere 5 Standard Acceleration Kit for 6 processors-One purchase per customer site. Each VS5 Standard AK contains vSphere 5 Standard for 6 Processors, 1 instance of vCenter Server 5 Standard, 1 instance of vSphere Storage Appliance. SnS is required. Renewals will be based on then current list SnS prices of the component products in the kit.	
1	VS5-STD-AK2-P-SSS-C	Production Support/Subscription VMware vSphere 5 Standard Acceleration Kit for 6 processors-Technical Support, 24 Hour Sev 1 Support -- 7 days a week.	
2	VS5-STD-C	VMware vSphere 5 Standard for 1 processor-SNS is Required.	
2	VS5-STD-P-SSS-C	Production Support/Subscription for VMware vSphere 5 Standard for 1 processor for 1 year-Technical Support, 24 Hour Sev 1 Support -- 7 days a week.	

		Installation, Training and Support performed by fully trained staff (one day = 8 hours)	Price
1 day		Assessment	
1 day		Design	
4 days		Implementation	
2 days		Documentation	
3 days		Knowledge Transfer	
			Price
		Total Price For Project	

CITY OF NEWTON

BIDDER'S QUALIFICATIONS AND REFERENCES FORM

All questions must be answered, and the data given must be clear and comprehensive. Please type or print legibly. If necessary, add additional sheet for starred items. This information will be utilized by the City of Newton for purposes of determining bidder responsiveness and responsibility with regard to the requirements and specifications of the Contract.

1. FIRM NAME: _____
2. WHEN ORGANIZED: _____
3. INCORPORATED? _____ YES _____ NO DATE AND STATE OF INCORPORATION: _____
4. IS YOUR BUSINESS A **MBE**? _____ YES _____ NO **WBE**? _____ YES _____ NO or **MWBE**? _____ YES _____ NO
- * 5. LIST ALL CONTRACTS CURRENTLY ON HAND, SHOWING CONTRACT AMOUNT AND ANTICIPATED DATE OF COMPLETION:

- * 6. HAVE YOU EVER FAILED TO COMPLETE A CONTRACT AWARDED TO YOU? ____ YES ____ NO
IF YES, WHERE AND WHY?

- * 7. HAVE YOU EVER DEFAULTED ON A CONTRACT? _____ YES _____ NO
IF YES, PROVIDE DETAILS.

- * 8. The undersigned certifies that the information contained herein is complete and accurate and hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the City of Newton in verification of the recitals comprising this statement of Bidder's qualifications and experience.

DATE: _____ BIDDER: _____

SIGNATURE: _____

PRINTED NAME: _____ TITLE: _____

END OF SECTION

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee club, or other organization, entity, or group or individuals.

(Signature of individual)

Name of Business

Nicholas Read ☼ *Chief Procurement Officer*
1000 Commonwealth Avenue
Newton Centre, MA 02459-1449
purchasing@newtonma.gov

Mayor
Setti D. Warren

Vendor

As a potential vendor on the above contract, the City requires that you provide a debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Federal Executive Order (E.O.) 12549 “Debarment and Suspension“ requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

I hereby certify under pains and penalties of perjury that neither I nor any principal(s) of the Company identified below is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

_____(Name)
_____(Company)
_____(Address)
_____(Address)
PHONE _____ FAX _____
EMAIL _____

Signature _____

Date _____

If you have questions, please contact Nicholas Read, Chief Procurement Officer at (617) 796-1220.

**Request for Taxpayer
Identification Number and Certification**

**Give form to the
requester. Do not
send to the IRS.**

Print or type See Specific instructions on page 2.	Name (as shown on your income tax return)	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ ----- <input type="checkbox"/> Other (see instructions) ▶	
	X Exempt payee	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
or
Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶	Date ▶	Name
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

CERTIFICATION OF TAX COMPLIANCE

Pursuant to M.G.L. c.62C, §49A and requirements of the City, the undersigned acting on behalf of the Contractor certifies under the penalties of perjury that the Contractor is in compliance with all laws of the Commonwealth relating to taxes including payment of all local taxes, fees, assessments, betterments and any other local or municipal charges (unless the Contractor has a pending abatement application or has entered into a payment agreement with the entity to which such charges were owed), reporting of employees and contractors, and withholding and remitting child support.*

**Signature of Individual
or Corporate Contractor (Mandatory)

Print Name:_____

By: _____
Corporate Officer
(Mandatory, if applicable)

Print Name:_____

*** Contractor's Social Security Number
(Voluntary) or Federal Identification Number

Date: _____

* The provision in this Certification relating to child support applies only when the Contractor is an individual.

** Approval of a contract or other agreement will not be granted until the City receives a signed copy of this Certification.

*** Your social security number may be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended.

CITY OF NEWTON, MASSACHUSETTS

PURCHASING DEPARTMENT

GENERAL TERMS AND CONDITIONS

1. The right is reserved to reject any and all bids, to waive informalities, and to make award as may be determined to be in the best interest of the City of Newton.
2. Interpretation, correction, or change in the Contract Documents will be made by Addendum which will become part of the Contract Documents. The City will not be held accountable for any oral instruction.
3. Addenda will be emailed to every individual or firm on record as having downloaded a set of Contract Documents. Addenda will also be posted on the City's website at www.newtonma.gov/bids. Any bidder downloading the IFB and any plans for a City bid shall email their company's information along with the IFB # and Project Title that they downloaded. You will then be added to the bidder's list and email distribution list.
4. Prices quoted must include inside delivery as specified on the Purchase Order.
5. No charges will be allowed for packing, crating, freight, Express or cartage unless specifically stated and included in the bid.
6. The award to the successful bidder may be cancelled if successful bidder shall fail to prosecute the work with promptness and diligence.
7. Time in connection with discount offered will be computed from the date of delivery to the City, as specified on purchase order, or from date correct invoice is received by the City, if the latter date is later than the date of delivery.
8. The successful bidder shall replace, repair or make good, without cost to the City, any defects or faults arising within one (1) year after date of acceptance of articles furnished hereunder (acceptance not to be unreasonably delayed) resulting from imperfect or defective work done or materials furnished by the Seller.
9. The Seller shall indemnify and save harmless the City and all persons acting for on behalf of it from all suits and claims against them, or any of them, arising from or occasioned by the use of any material, equipment or apparatus, or any part thereof, which infringes or is alleged to infringe on any patent rights. In case such material, equipment or apparatus, or any part thereof, in any such suit is held to constitute infringement, the Seller, within a reasonable time, will at its expense, and as the City may elect, replace such material, equipment or apparatus with non-infringing material, equipment or apparatus, or remove the material, equipment or apparatus, and refund the sums paid therefor.
10. All bids shall be based on the quantities set forth on the attached bid sheets. These quantities shall be used as a basis for the comparison of the bid proposals. It is agreed that the quantities given in this bid are assumed solely as a basis for the comparison of the bids. While the quantities are based on the City's best estimates of the work to be performed during the term of this Contract, the City does not expressly or by implication agree that the actual amount of work will even approximately correspond herewith, and the City reserves the right to increase or diminish the amount of any class or portion of the work as it may deem necessary, without change of price per unit of quantity.
11. The successful bidder shall comply with all applicable Federal State and Local laws and regulations.
12. Purchases made by the City are exempt from Federal excise taxes and bid prices must exclude any such taxes. Tax exemption certificates will be furnished upon request.
13. If so stated in the Invitation For Bid the successful bidder will be required to furnish a performance and/or a labor and material payment bond, in an amount, in a form and with a surety satisfactory to the City. The bidder shall be responsible for the cost of the bond(s).
14. If the Invitation for Bids requires bid surety, this surety shall be in the form of a cash, bid bond, cashier's check, treasurer's check, or certified check on a responsible bank, payable to the City of Newton, and must be filed with the original bid in the Office of the Purchasing Agent. Failure to do so will lead to rejection of bid. The bid surety will be returned to the successful bidder within seven (7) days execution of awarded, and approval by the City of performance and/or payment bond(s). In case of default, the bid surety shall be forfeited to the City.

15. Verbal orders are not binding on the City and deliveries made or work done without formal Purchase Order or Contract are at the risk of the Seller or Contractor and may result in an unenforceable claim.
16. The Seller shall agree to indemnify, defend and hold the City harmless from any and all claims arising out of the performance of this contract.
17. "Equality - An item equal to that named or described in the specifications of the contract may be furnished by the Vendor and the naming of any commercial name, trademark or other identification shall not be construed to exclude any item or manufacturer not mentioned by name or as limiting competition but shall establish a standard of equality only. An item shall be considered equal to the item so named or described if (1) it is at least equal in quality, durability, appearance, strength and design; (2) it will perform at least equally the function imposed by the general design for the work being contracted for or the material being purchased; and (3) it conforms substantially, even with deviations, to the detailed requirements for the item in the specifications. The name and identification of all materials other than the one specifically named shall be submitted to the City in writing for approval, prior to purchase, use or fabrication of such items. Subject to the provisions of M.G.L., Ch. 30, Sec. 39J, approval shall be at the sole discretion of the City, shall be in writing to be effective, and the decision of the City shall be final. The City may require tests of all materials so submitted to establish quality standards at the Vendor's expense. All directions, specifications and recommendations by manufacturers for installation, handling, storing, adjustment and operation of their equipment shall be complied with; responsibility for proper performance shall continue to rest with the Vendor.

For the use of material other than the one specified, the Vendor shall assume the cost of and responsibility for satisfactorily accomplishing all changes in the work as shown. If no manufacturer is named, the Vendor shall submit the product he intends to use for approval of the City.

Except as otherwise provided for by the provisions of M.G.L., Ch. 30, Sec. 39J, the Vendor shall not have any right of appeal from the decision of the City condemning any materials furnished if the Vendor fails to obtain the approval for substitution under this clause. If any substitution is more costly, the Vendor shall pay for such costs."

18. Notice is hereby given that the City of Newton Minority/Women Business Enterprise Plan dated December 1999 is applicable to all City of Newton contracts for materials and supplies. A copy of this plan may be obtained from the Purchasing Department.
19. Notice is hereby given that the City of Newton Minority Business Enterprise Plan and the Supplemental Equal Employment Opportunity Anti-discrimination and Affirmative Action Program is applicable to all City of Newton contracts in excess of \$50,000.00. A copy of these plans may be obtained from the Purchasing Department.
20. In the event that the City receives low bids in identical amount from two or more responsive and responsible Bidders, the City shall select the successful Bidder by a blind selection process such as flipping a coin or drawing names from a hat. The low Bidders who are under consideration will be invited to attend and observe the selection process.
21. Right To Know:

Any vendor who receives an order or orders resulting from this invitation agrees to submit a Material Safety Data Sheet (MSDS) for each toxic or hazardous substance or mixture containing such substance, pursuant to M.G.L., Ch. 111F, SS8, 9 and 10 and the regulations contained in 441 CMR SS 21.06 when deliveries are made. The vendor agrees to deliver all containers properly labeled pursuant to M.G.L. Ch. 111F, SS 7 and the regulations contained in 441 CMR SS 21.05. Failure to submit an MSDS and/or label on each container will place the vendor in noncompliance with the purchase order. Failure to furnish MSDSs and/or labels on each container may result in civil or criminal penalties, including bid debarment and action to prevent the vendor from selling said substances or mixtures containing said substances within the Commonwealth. All vendors furnishing substances or mixtures subject to Chapter 111F of the M.G.L. are cautioned to obtain and read the law and rules and regulations referred to above. Copies can be obtained from the State House Book Store, Secretary of State, State House, Room 117, Boston, MA 02133, (617-727-2834) for \$2.00 plus \$.65 postage.

FAILURE TO COMPLY WITH THESE TERMS AND CONDITIONS COULD RESULT IN THE CANCELLATION OF YOUR CONTRACT

END OF SECTION